

DOCKET NO. D-2012-012 CP-1

DELAWARE RIVER BASIN COMMISSION

**Kimberly-Clark of Pennsylvania, LLC
Kimberly-Clark Chester Cogeneration Facility
Surface Water Withdrawal
City of Chester, Delaware County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted by ENVIRON International Corporation on behalf of Kimberly-Clark of Pennsylvania, LLC (KC or docket holder) to the Delaware River Basin Commission (DRBC or Commission) on March 28, 2012, for inclusion of the existing Kimberly-Clark Chester Cogeneration Facility (CCF) into the Comprehensive Plan and the renewal of an existing surface water withdrawal to provide industrial cooling/process water to the Kimberly-Clark Chester (KC-Chester) facility (Application).

The Application was reviewed for inclusion in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Delaware County Planning Department has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on December 5, 2012.

A. DESCRIPTION

1. **Purpose.** The purpose of this docket is to include the existing CCF into the Comprehensive Plan and to approve an existing surface water withdrawal allocation at the KC-Chester facility of up to 341 million gallons per month (mgm). The water withdrawn will continue to provide the KC-Chester facility with industrial cooling/process water.
2. **Location.** The CCF is located on the KC-Chester facility site in the City of Chester, Delaware County, Pennsylvania. The KC-Chester facility and its related intake (Intake No. 1) are located along the Delaware River in Water Quality Zone 4. Specific location information has been withheld for security reasons.
3. **Area Served.** The CCF provides steam and electricity to support production operations at the KC-Chester facility. Water withdrawn via Intake No. 1 services only the KC-Chester facility. The service area is outlined on a map entitled Layout Site Preparation in the Maps tab

of the Application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. Physical features.

a. Design criteria. The docket holder shall continue to operate the CCF, which supplies steam and electricity to the KC-Chester facility. The CCF is a circulating fluidized bed boiler. Two oil/natural gas-fired back-up boilers produce steam if the cogeneration facility is not operating.

Intake No. 1 currently withdrawals up to 7.1 million gallons per day (mgd) of water from the Delaware River via Intake No. 1 on average and 11 mgd as a maximum. The 10-year average and maximum water demand is expected to remain the same. Docket No. D-84-53 which approves the discharge from the KC-Chester facility, also includes the water withdrawal of up to 17.6 mgd. The allocation of up to 341 mgm should be sufficient to meet the future demands of the KC-Chester facility and results in a decrease in allocation of 6.6 mgd or 204.6 mgm from the allocation approved in the prior docket.

b. Facilities. Intake No. 1 has the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (MGD)	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
1	Delaware River	20	3,255	1954

Intake No. 1 is metered.

Prior to entering the distribution system, the water is filtered to remove suspended solids.

The project is located in the tidal area of the Delaware River and therefore the Commission's *Flood Plain Regulations* do not apply.

c. Other. Industrial wastewater is conveyed to the Delaware County Regional Authority (DELCORA) Wastewater Treatment Plant (WWTP). The Commission last approved the DELCORA WWTP on September 21, 2011 via Docket No. D-1992-018 CP-2.

Non-contact cooling water (NCCW) from the KC-Chester facility is discharged to the Delaware River via Outfall No. 003. The DRBC last approved this discharge on May 1, 1985 via Docket No. D-84-53. The Pennsylvania Department of Environmental Protection (PADEP) issued its most recent NPDES Permit No. PA0013081 on May 1, 2007 for this discharge. The PADEP is expected to renew the NPDES Permit shortly and the DRBC is expected to renew the discharge at the December 5, 2012 Hearing via Docket No. D-1984-053 CP-2.

d. Cost. There are no construction costs associated with this existing withdrawal and cogeneration facility.

e. Relationship to the Comprehensive Plan. Issuance of this docket will incorporate the CCF into the Comprehensive Plan (See DECISION Condition I.).

B. FINDINGS

The purpose of this docket is to include the existing CCF into the Comprehensive Plan and to decrease an existing surface water withdrawal allocation at the KC-Chester facility to 341 mgm. The water withdrawn will continue to provide the KC-Chester facility with industrial cooling/process water.

The DRBC estimates that the project withdrawals, used for the purpose of industrial cooling/process, result in a consumptive use of 18.4 percent (18.4%) of the total water use. The DRBC definition of consumptive use is defined in Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

Section 2.3.5.1 C. of the Commission's *Rules of Practice and Procedure (RPP)*, requires industrial and commercial water withdrawals in excess of one million gallons per day to develop a contingency plan including emergency conservation measures to be instituted in the event of a Commission declared drought or other water shortage. Resolution No. 83-14 amended the Commission's *Water Code* (Section 2.1.4) to include the conservation goal of a 15 percent reduction in depletive use during drought conditions. Hereafter referred to as drought management and contingency plans (DMCPs), DMCPs must contain the following: source of water supply; the average daily and monthly peak water withdrawal; average daily and peak monthly consumptive use (difference between quantity withdrawn and quantity returned to the ground or surface waters of the basin); description of recycling and conservation measures; point of discharge (where water is returned or discharged); types of products produced; normal employment levels (numbers); and estimated employment (numbers) and economic impact for curtailment of water usage for the following levels of curtailment: 10%; 25%; 35%; 50% and 100%. The DMCP shall be submitted to the Commission within 6 months (by June 5, 2013) of the docket approval date. The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director (See DECISION Condition II.g.). In addition, for this facility the DMCP must include the alternative water sources that the facility has investigated and considered to meet its consumptive use demands.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

C. DECISION

I. Effective on the approval date for Docket No. D-2012-012 CP-1 below, the project and the appurtenant facilities described in the Section A “Physical Features” shall be added to the Comprehensive Plan. In addition upon the approval of Docket D-2012-012 CP-1, the withdrawal allocation currently included in Docket D-84-53 is rescinded.

II. The project and appurtenant facilities as described in the Section A “Physical Features” are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. The docket holder shall register with and report to the PADEP all surface and ground water sources described in this docket in accordance with the Pennsylvania Regulations (Title 25 - Environmental Protection, [25 PA. CODE CH. 110], Water Resources Planning).

b. The intake, CCF, and operational records shall be available at all times for inspection by the DRBC.

c. The intake shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

d. During any month, the withdrawal from Intake No. 1 shall not exceed 341 million gallons and Intake No. 1 shall not be pumped above the maximum instantaneous rate provided in Section A.4.b. of this docket.

e. The docket holder shall continue to pay for surface water use in accordance with the provisions of Resolution No. 74-6, as amended.

f. The project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported to the PADEP annually and shall be available at any time to the Commission if requested by the Executive Director.

g. The docket holder shall prepare and submit a DMCP to the Commission within 6 months (by June 5, 2013) of docket approval. The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director.

h. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

i. The docket holder is permitted to provide the water approved in this docket to the areas included in Section A.3. Area Served of this docket. Any expansion beyond those included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the *Compact*.

j. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

k. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the Basin.

l. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

m. For the duration of any drought emergency declared by either Pennsylvania or the Commission, water service or use by the docket holder pursuant to this approval shall be subject to the prohibition of those nonessential uses specified by the Governor of Pennsylvania, the Pennsylvania Emergency Management Council, PADEP, or the Commonwealth Drought Coordinator to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

n. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

BY THE COMMISSION

APPROVAL DATE: December 5, 2012

EXPIRATION DATE: December 5, 2022